

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8432 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and  
MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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BRAHM ISPAT LIMITED

Versus

UNION OF INDIA  
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Appearance:

MR MIHIR JOSHI for Petitioner  
MR MR SHAH for Respondents  
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CORAM : MR.JUSTICE J.N.BHATT and  
MR.JUSTICE H.K.RATHOD

Date of decision: 26/10/1999

ORAL JUDGEMENT(Per J.N.Bhatt, J.)

Rule, service of which is waived by learned counsel Mr  
M.R.Shah for the respondents.

The main grievance of the petitioner is against the  
inaction in non-hearing of the application for stay

pending the appeal by the appellate authority and at the same time taking recourse to coercive action. In other words, the department is seeking to enforce the impugned demand by resorting to coercive recovery without considering and deciding the merits of the stay application. There is no dispute about the factual aspects. In many such similar matters, this Court has taken the view that the stay application should be decided and until it is determined, obviously, no coercive action should be initiated against the assessee.

In view of the aforesaid undisputed facts, respondent No.2 is directed to dispose of the stay application pending appeal within a period of four weeks and no coercive measures shall be taken by respondent authorities until the stay application is decided.

Accordingly, rule is made, partly, absolute with no order as to costs.

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(vjn)